

# **Operational Policy Letter #19**

**Department of Health & Human Services**

**Health Care Financing Administration**

**Medicare Managed Care**

**June 15, 1995**

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## **APPEAL RIGHTS FOR HCPP ENROLLEES**

### **Issue:**

A final rule entitled "Appeal Rights and Procedures for Beneficiaries Enrolled in Prepaid Health Care Plans," was published in the Federal Register (Vol. 59, No. 223, pages 59933-43) on November 21, 1994. The effective date is May 22, 1995. One provision of the rule gives Medicare enrollees of Health Care Prepayment Plans (HCPPs) the right to appeal HCPP decisions to deny medical services or claims.

### **Operational Policy Question:**

Does the final rule also apply to the terms of the subscriber agreement between the HCPP and the enrollee, or is the rule limited to Medicare-covered services stipulated in the agreement between HCFA and the HCPP?

### **Answer:**

HCFA does not have the authority to require HCPPs to provide appeal rights for disputes growing out of the subscriber agreement except to the extent the subscriber agreement overlaps the agreement between HCFA and the HCPP. The agreement between HCFA and the HCPP and those portions of subscriber agreements overlapping that agreement would be covered by the appeals regulation provision affecting "organization determinations."

The provisions of the final rule affecting HCPPs are found at 42CFR417.801 and 42CFR417.830 - 417.840. For purposes of these sections, an organization determination is a refusal by the HCPP to furnish or arrange for services (or reimburse a party for services) provided to the beneficiary on the grounds that the services are not covered by Medicare (42CFR417.838(a)).

The rule specifically states that a determination regarding services that are not covered under the HCPP's agreement with HCFA is not an organization determination (42CFR417.838(b)(2)).

In summary:

- The HCPP appeal rights effective May 22, 1995 only apply to organization determinations;
- a determination regarding the HCPP subscriber agreement is an organization determination only to the extent it overlaps coverage stipulated in the HCPP's agreement with HCFA; and
- all determinations outside the scope of organization determinations will not be covered by the appeals rule.

Contact:

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